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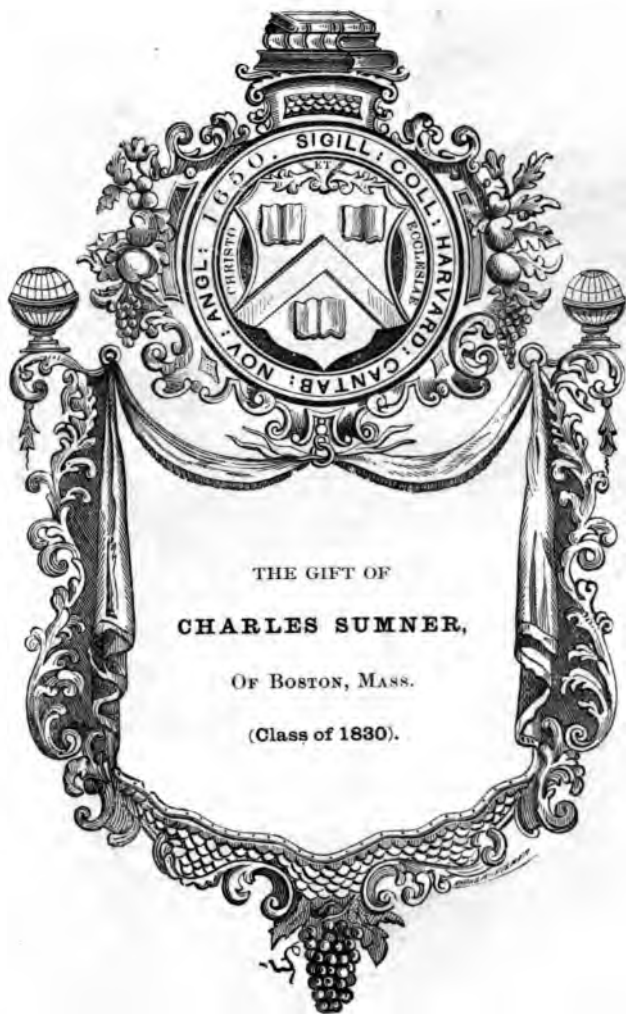
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Turner - Status of Georgia - 1870.

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Turner, H. M.
THE CIVIL AND POLITICAL STATUS

OF THE

State of Georgia
STATE OF GEORGIA,

AND

HER RELATIONS TO THE GENERAL GOVERNMENT,

*Reviewed and Discussed in a Speech Delivered in the House of
Representatives of the Georgia Legislature, Aug. 11, 1870,*

BY

HON. H. M. TURNER.

[Published by request of the Republican Members of the General Assembly.]

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S P E E C H .

The following is the preamble and resolution of Senator Smith, of the 7th District, adopted in the Senate by a vote of 21 to 14, as a substitute for the preamble and resolutions of Mr. Tweedy, of the House :

Mr. Smith, of the 7th, offered the following as a substitute for the whole :

WHEREAS, The constitutional term of the several officers of this State, including that of this General Assembly, are necessarily dependent on the time when, under the several acts of Congress the constitution goes into operation as the paramount law, freed from military influence; and

WHEREAS, The act of Congress of July 15, 1870, does not fix said time, and the same cannot be definitely settled until Congress shall decide by the actual admission of our Senators and Representatives; and

WHEREAS, It is unwise further to complicate affairs by the election of new officers while the period when the State Government, as such, under the Constitution, begins its existence is uncertain. Therefore,

Resolved, That the General Assembly so shape its legislation as that no election shall be held for the various officers provided for by the Constitution until Congress, by the admission of our Senators and Representatives, or in some other way, shall definitely determine whether the Constitution of this State is held to go into operation as the paramount law in 1868 or in 1870.

While the above resolutions were before the House the following speech was delivered by Mr. Turner :

MR. SPEAKER : When the question now before the House first began to be agitated, I had determined to cast my vote against extending our term of service. My opinion was that the time for which we had been elected had expired, and for us to perpetuate ourselves in office was a flagrant usurpation of power, and a public outrage upon the rights of our constituents, that could not be atoned for by any plea of emergency or excused by any sense of justice. Another reason why I intended to cast my vote against this measure was, owing to an eager desire to quit the scrambling arena of politics and enter the quiet field of literature and the general education of my race—a work which I regard far more necessary, if not indispensable at this time, especially since the adoption of the XVth Amendment, the glorious Magna Charta of American liberty, and the passage of the Enforcement Act, than the thankless position of a representative.

But since giving this subject a thorough and unbiased examination, I find it is one which not only has two sides, but a subject whose merits and importance demand more than a passing notice. And while I intend to consider a few of them, I shall not promise you an analytical essay on the subject, but I propose to give my reason for changing my views, and the position I shall occupy when my vote is cast, and submit them to you for the enormous sum of nothing.

I was elected two years ago, by an overwhelming majority, as one of the Representatives of Bibb county, and summoned by General Meade to appear in Atlanta, the capital, and proceed to take charge of the State, in common with the Senators and Representatives who were elected in the same way and at the same time. I obeyed the order as you did, appeared at the same time and place ; we each took the oath of our respective office, administered by the same judge. We all witnessed the inauguration of our Governor, accompanied with the roar of a hundred guns, elected all the State House officers, United States Senators, ratified the XIVth Amendment, and, after what purported to be a thorough investigation, as to the eligibility of members, passed a resolution declaring all the members present eligible to their seats. We saw the Stars and Stripes unfurled at the mast-head of the old ship of State, and proudly float in the breezes of Heaven. She was fully rigged, manned and ready to sail in the harbor of the Union. When, lo ! suddenly, to our surprise, and to the consternation of the country, a mutiny was raised on board of the ship of State, by reason of a portion of the crew conspiring together, and, with a reckless disregard for the resolution and agreement, made attempts to hurl from the deck a part of the crew on the sole ground of their color, and by the prowess of their number and strength, succeeded in heaving them where the dash of billow and the howl of the

storm assumes the vengeance of battle. But, after a long and perilous struggle in the boisterous sea, they were finally picked up by the captain of their salvation, and

Bright garlands of immortal joy,
Bloomed on every head ;
But sorrow, sighing and distress,
Like shadows, all are fled.

Congress took possession of this tempest-tossed craft, and by the Act of December 22, 1869, carried her softly back to July, 1868, at which time she compelled the mutineers to submit to order, and reinstate that portion of the overboard-thrown crew, and commence *de novo*. Her masts and spars were re-rigged, her decks remanned and her helm was re-piloted.

Whatever delay, therefore, there may be in the arrival of the old Ship of State in the Union, the holding over of officers, the long delay of elections, the perpetuation of crimination and recrimination, of which we are all sick, and the so much desired object of the State being in the Union and under the Constitution, so hateful once, but lovely now, is chargeable alone to the bad faith and treachery of the very parties who now are howling and whining so mournfully over the hideous usurpers of the Legislature.

Sir, if there is anything wrong the blame is not at our door, and when you charge me with it, I most indignantly hurl it back, attended with hissing vipers if possible, in the face of your public meetings to overawe my judgment.

We are now, after two years of hard labor, toil and trouble, about to get the old Ship of State fully rigged and manned under the last act of Congress. And if no serious disaster happens to her, she will arrive in the harbor of the Union about the first of December next, safe and sound, which will be the final completion of reconstruction and the capstone of civil liberty in Georgia, if fire-eaters will let good enough alone. But if they do not the last state will be worse than the first.

I hope the House will pardon the allegoric allusion just made. I now propose to proceed with a statement of the facts, particularly so far as relates to the organization of this House. When we met here in 1868 we neither exacted the test oath nor the enforcement of the provisions of the XIVth amendment, which the supreme law of the land required; Congress nevertheless admitted our representatives in the Lower House, and the Heart of the nation felt a relief so far as Georgia was concerned. But alas, for the lack of discretion and that stern adhesion of principle, in a majority of members, they turned with ruthless hands and carnivorous hearts, and notwithstanding their resolution declaring all eligible to seats, expelled every man from that body whose face had not been chalked by the God of indiscrimination. Then followed a series of evils, culminating in fearful issues. The moment that act was perpetrated this body became defunct and illegal, the American eagle hovered over it no longer, but stretched her wings and soared aloft, giving a frightful scream, while the deceptive fabric went tumbling down beneath. That body lost its legislative character, and by the effects of its own acts, was changed into a pandemonium, and to cap the climax, admitted persons to seats who are no more entitled to them than I am to a seat in the Senate. Yet these same world-famed reformers talk about usurpation, but it is a singular fact that whenever the devil wants to cut a big swell he generally leaves some back door open. Had these constitutional sticklers waited a few more months and then played their programme, they might have troubled us considerably, but like all horses who run too fast at the start, they soon broke down. Now, let us look at this question fairly and squarely, and in the position I shall assume, I challenge refutation in advance.

I deny that we have the right or power to disband this body, call it a Legislature, conclave, or whatever you choose, without disobeying the behests of our constituents, the Reconstruction Laws, and the orders of General Meade, which became of force when the military power was revived. I go further and say, that our oath of office forbids it—we were sent here to comply with the provisions of the supreme law of the land; that law was inexorable in its demands for the purgation of that body, as per XIVth Amendment. But we failed to obey it, and thereby rendered our right to legislate questionable at least. Congress, however, would have winked at that breach of the law, and let us gone on, had we there stopped; but no, the fires of an effervescible hope had warmed to animation the frozen vipers which were lying in such a harmless looking posture amid the congelations of loyalty. Then, having neither gratitude in their hearts, nor reason in their heads, proceeded to perpetrate the crime of expelling a fourth of the people's Representatives. This revolutionary measure nearly balanced the General Assembly. That is, it about divided those claiming to be legally elected, and those who were usurpers and illegitimates under the law. Now let us look at the results of this procedure. The moment you ejected the colored members you lost your legal guarantee, and became an eating cancer upon the people of Georgia, in extorting pay for your services. And Congress so virtually held, when she refused admission to our Senators, and, may I not say, re-reconstructed you, and placed a General (overseer) here to enforce the mandates of the nation, with the mild scepter of the bayonet.

The Act of December 22, 1869, reconvened us. But, mark you, we did not commence where we left off at on September 3, 1868, but were carried back to the original starting point—to July 4, 1868—and, covered with shame and humiliation, ordered to do our first work over again. And lest we should trifle and become too generous to execute the law, General Terry was ordered to do it for us, while we were no more than toys in the hands of a boy!

This establishes most conclusively, to my mind, that Congress, while not ignoring all her former legislation in relation to admitting Georgia, did set it aside, and fully ignored all former transactions on our part. And I am sorry that Governor Bullock did not have the moral stamina in him to repudiate all the legislation done in the absence of the colored members, by not signing a single bill. I believe, and ever shall, that Congress would have sustained him in it. These are potent and incontrovertible facts, well known to every one in this House.

Will some gentleman please tell me where our Constitution was at this time? If we were a legal body, why did not the people of Georgia rise up and shake the Constitution in the face of the President and Congress and defy their General to dictate a course of action for them. Why did you not send for Mr. Toombs, Mr. B. H. Hill, Herschel V. Johnson, and other such lights, to expound the rights of a commonwealth, and set forth the grandeur of State Sovereignty in all its touch-me-not prerogatives? Sirs, it does not need a philosopher to explain the reasons why.

Premising from the above, if this is not the first legal session of the Legislature, why and where is it to be found? It certainly was not in the sessions of 1868-69, otherwise Congress is composed of a banditti of men *non compos mentis*, for the act of December 22, 1869, says, to-wit:

Be it enacted, By the Senate and House of Representatives of the United States of America in Congress assembled, That the Governor of the State of Georgia be and he is hereby authorized and directed, forthwith, by proclamation, to summon all persons elected to the General Assembly of said State, as appears by the proclamation of George G. Meade, the General commanding the Military District including the State of Georgia, dated June twenty-fifth, eighteen hundred and sixty-eight, to appear on some day certain, to be named in said proclamation, at Atlanta, in said State; and thereupon the said General Assembly of said State shall proceed to perfect its organization, in conformity with the Constitution and laws of the United States, according to the provisions of this act.

Note the phraseology here, if you please: "The General Assembly shall proceed to perfect its organization in conformity with the Constitution and laws of the United States, according to the provisions of this act:" not, and according, etc., but according etc. You see there is no new exactions whatever required, but a simple conformity to those previously existing. This, says Congress, in a negative declaration, has not been done; so, go now and do it, you obstreperous and disobedient fellows, for you are not free yet. I am still watching you; and hold you in my grasp, and if you don't obey my injunctions, I will make you do it, with powder and lead.

This, in so many simple words, is the language of Uncle Sam. And you may weave around it legal technicalities till doomsday, but you can't change the glaring facts. You might invoke the shades of Erskine, Coke, Bacon, Marshall and Kent, and they could find no other construction than the one I have given.

If this is not the first legal session of the Legislature, where are we colored members to find one in which to represent our constituents and proceed to make laws for their protection and security? Do you want us to go to South Carolina or Alabama to find it? As one, I shall not go.

I do not deny there have been sessions of a conclave, but where was its legality? Show it to me and I will show you a railroad running to the moon. I offered some bills at our so-called session in 1868, but ere they came up for final action I had to leave.

But, you say, didn't we pay you colored members for your back time, and thereby acknowledge your legal right? Yes; you did. So has many a man been buried in a fine coffin, too, after he was hung, but he was dead, nevertheless. What do my constituents care about your paying me? They sent me here to make laws for their welfare, not to be turned out and paid off as a hush fee.

I beg to ask another question here. Have you paid my constituents for the losses they have sustained? Have you paid them for keeping them off the jury for nearly three years, and for the hundreds you have convicted through white juries, poisoned with prejudice, and sent to the Penitentiary, in perfect caravans, or hung for the most trivial charges and false allegations? Have you paid the damages done to the rising youths of our State for not enacting a school bill, as the Constitution peremptorily required, at the first session of the Legislature, and as I hope we will do? Have you paid for that abominable decision which the Supreme Court made under your afflatus, which allows white men to generate their species with colored women, and, however much they may love each other, (for love one another they will,) force them to live a life of adulterous conjugality, and thereby bastard their children and criminate themselves where the purest affections exist?

Have you paid for murdering my bill, offered in 1868, after expelling me, pro-

viding a regulation to govern common carriers, thereby compelling colored passengers to pay as much as the whites, then to be thrust into Jim-Crow cars, for white men to insult their wives, blackguard our daughters, and smoke them to death?

Have you paid for not legislating upon that provision of our Constitution which gives the laborer a lien on the property of the employer, subjecting him to being driven away at the end of the year utterly penniless, (as I have seen many,) while the fundamental law lies dead for the want of the breath of legislation?

Have you paid for inflaming the public mind, as you did when you expelled the colored members, and for arousing the worst passions that were ever touched by the batteries of hell itself, thereby disarming the negro of his civil and political rights, in the face of the Civil Rights bill and the XIVth Amendment to the Constitution of the United States?

Have you paid back the money into the State Treasury which you ruthlessly wrung from the tax-payers of Georgia to pay the pseudo legislators who were called in to fill up the gap made by expelling the colored members?

Have you paid back the enormous sums expended in Washington by men whose wives and children were suffering at home, for lobbying there and representing the condition of things here, brought on by the revolutionary measures that I have just enumerated?

Have you paid for the lies and abuse which have been told and published by an action which has caused five men to be knocking at the door of the United States Senate from our State, instead of two?

I say again, have you paid these things? If not, never use that argument any more.

That is not all. Do you suppose you can, by force, drive out and absolve the people's Representatives from allegiance to their official functions and then pay them off as a commutation for the time arbitrarily wrrenched from their hands, while they are invested with the destiny of thousands, and then they be satisfied? Sir, such an analogy is not found in the historic records of the world, and the Representative who would be so mean and sordid as to accept such a panacea deserves the brand of eternal infamy. Against such a hobgoblin the indignant heavens would roll a frown, and shuddering hell would murmur a sullen curse. Yes; even masquerading spectres from the depths of perdition would loathe such a name, and refuse his company. Why not pay him for his time as soon as elected, and not bother him with the trouble of being expelled at all? What right has he, as a free man and public functionary, living where a slave dare not show his face, to sell himself for a trivial bribe?

What great things has he done, that the people should hazard every comfort and peril life to elect him to a position, merely to be paid off and quit and go home without doing something? How would I look going to Bibb county and saying to my constituents, well, I am here again. What have you done for us? would be very naturally asked. Well, nothing particularly; only that I was well paid out of your taxes, and then I voted to quit and come home for fear that the Democrats and a few political aspirants would not like it. Sir, if they did not flail me all over the streets of Macon they are undeserving the boon of liberty. And were I to vote this Legislature out of existence as soon as it assumed a standard of legality, without an effort to accomplish something for my people, I would be found by them derelict to duty, false to my oath, and untrue to those who have thus honored me. And every white Republican who votes for it will be equally criminal, for, in our absence, he was only a sounding brass and a tinkling cymbal.

But I know where the secret of this opposition lies. It is not so much whether this is a legal Legislature or not, as it is to form the basis of a criterion by which to test the question of our Senatorial rivalry. In other words, whether Mr. Hill or Mr. Farrow, Mr. Miller or Mr. Whiteley, shall take seats in the United States Senate, and how the eternal Mr. Blodgett shall be kept out; which, and who among them, would take up the cause of the negro and recommend him for positions in Washington. Well, it so happens that I am on friendly terms with all these gentlemen, and, while I do not know what any of them would do in that respect, nor do I care a fig, it is so insignificantly worthless, compared to the bloodshed which men are trying to bring about over it, that I shall not consent to allow that question to be thrown in the scales of my judgment. Let these gentlemen fight it out before the door of the United States Senate. It will have to be done anyhow, if we have a thousand elections this Fall, for they all have certificates from the Governor and the Senate has been styled the white man's heaven any way, so let them rip and dance out their jig of competition in Washington. But neither political aspirants nor their friends, shall grind my constituents to powder through their wiry intrigues if I can prevent it. I stand here to-day to guard their rights and keep sacred the threshold of their liberties, and will do it; so help me God. And I know of no duty which I could perform so serviceable to my people, as staying the bloody hands of the assassin, which would be unloosed if we have an election this Fall.

Were you up to the so-called citizens' meeting the other night; did you hear the members of the Legislature called devils, rascals, villains, hell-hounds, and the

powers of the government defied by the greatest lights, too, in the State; is this the kind of language gentlemen are ranting to overturn the laws, to get on the stump with; if so, God forbid we should ever have another election. Ah, but some one says that was only a word; what does that amount to? That was a small thing, not worthy of notice. So was the gnat small by which Pope Adrian lost his life; so was the hair small by which a Roman counselor came to his death; so was the grape-seed small that sent Anacreon, the famous Greek poet to his grave; so was the mushroom small that deprived the Emperor Charles the Sixth of his life; so was the grain of sand small that cut the optic nerve of the great Assyrian General's eye, and caused a defeat, which bestrewed the ground with dying men and flowing blood; one infinitesimal particle of small pox, whose smallness would defy the detection of a microscope that magnifies a million times, has again and again inflamed the body of the most stalwart man, and impregnated the atmosphere with its deadly virus, till continents have been plowed by the shafts of death. A word has changed the destinies of nations, and turned the tide of civilization: sunk men to infamy, and raised others to fame and immortality; yet men talk about such language as was used the other night as nothing. I can tell what it is, it is the entering wedge to a useless effusion of blood this Fall, that it is neither required by the laws of the land, nor dictated by any stroke of policy.

Again, if this is not the first legal session of the Legislature, why did we, under the Act of Congress approved December 22, 1869, go to work on our reassembling and elect all the officers over again? It is well known we met here in 1870 as completely unorganized as we did 1868. And not a man on either side of the House dared to question the fact or raise his voice against the propriety of reorganizing as per Acts of Congress. If this is the same General Assembly—in new attire, if you please—that exploded September 3, 1868, by ejecting the colored members, why did you select a new Speaker, a new clerk, a new messenger, a new door-keeper, and appoint new secretaries? Why were all the standing committees reappointed? and why do gentlemen so fastidiously scrupulous about the legal technicalities bearing on that case, serve on these committees, and condescend to elect new committee clerks? While the gentleman from Richmond (Col. Bryant) for whom I cherish warm considerations for his great labors in the past, and for his unswerving devotion to all questions involving the direct interest of my race, appears to feel so outraged at the idea of this body commencing its legal status from the Act of Congress approved July 15, 1870, I beg him to remember that he was, nevertheless, a very formidable candidate for the Speakership of this House, when we met here last January, which, I think, was a broad-face committal, both of himself and all who voted for him, to the fact of this being the first and only legal session of the General Assembly. Other than that would be putting new wine in old bottles, which Jesus Christ says would cause an explosion.

And if I understand the purport of the Act of Congress approved July 15, 1870, it is analogous to that passed by the same body for Mississippi, Texas and Virginia, which contemplates no election this fall, and made it one of the fundamental conditions to their admission that the XVth Amendment should be ratified. Now, if I have stated the facts correctly, this is another lambent test, settling to a mathematical demonstration the time this body unquestionably assumed a legal relation to the General Government. For all are satisfied that there were no XVth Amendment known or heard of in 1868—not prior to June 25, any how—and Congress never expected us to ratify what did not really exist, nor to comply with any prospective conditions as a fundamentality. Now, this being conclusive as a natural sequence, the very fact, then, of the ratification of the XVth Amendment being required as a previous condition to our admission to representation, proves beyond a doubt that the General Assembly began *ab initio* when such action was performed. And neither has the President or Congress ever recognized any ratification except that done by this body after it was purged as required by the provisions of the XVth Amendment.

And do you know that the vote of Georgia was not counted in the last Presidential election in a manner to affect the result? I believe it was nominally enumerated in the count merely to cheer up old man Seymour, and keep him from despairing entirely at the idea of Grant's overwhelming victory.

Let us next see what the State Constitutional Convention thought about this matter. That Convention, by an ordinance adopted March 10, 1868, which was vitalized by the election order of General Meade, issued from his headquarters March 14, 1868, ordained that an election should be held in April following for the State and General Government officers. The preamble of that ordinance sets out as follows:

WHEREAS, All civil officers of the State are only provisional until the State is represented in Congress; and whereas, the interest of Georgia requires that all civil offices should be filled by loyal citizens, according to the provisions of the Constitution.

Then follows the provision of the said ordinance. Thus you see that the Convention thoroughly comprehended the situation, and took the only view of our status as

a State that was rational under the circumstances, and which accorded with the laws of Congress. And though the same Convention does fix a limitation as to the time our State machinery shall commence to run, yet we must remember that the Convention never contemplated that its Constitution would be either vitiated by a false construction or that the General Assembly would break the laws of the General Government before it became capacitated to enact a solitary law of its own. This is the way, gentlemen, you have got to look at this question, not weave your desires into law, not act upon the impulse of like or dislike, but on the broad platform of common sense. When the head dies the body rots. So, when you, the head of our State, broke the initiatory conditions precedent to an admission in the Federal Union, in their very incipency, the chain was severed and the connection broken.

It is well known that I am no pet of Governor Bullock. I wrote and spoke for him when he was a candidate for the Governor's position, because he was the choice of my party. I never asked a personal favor of him in my life as I recollect, nor do I ever expect to.

But I believe that the manifest anxiety for an election this fall is owing to an eagerness to get a Legislature that will impeach the Governor and throw him out of office. Men may present whatever subterfuge they like, but that is the object and purpose of all this foolish jargon.

And what is it all for? Has he done anything worthy of such a death? Has he not stood the test of all your investigations, both in Washington and here? Has he not just been honorably exonerated by a committee composed of some of the hottest Democrats in both branches of the General Assembly? Has he not pardoned every Democrat that he was asked to? Has he not, in the generosity of his noble nature appointed some of the meanest men to office that ever lived, to please you? Has he not actually ignored his own friends to make room for you in several instances, to see if he could not charm you by acts of kindness and induce you to behave yourselves and act like high-toned citizens, and not keep up an eternal bedlam in Georgia. There is not another Republican in Georgia, or in the nation, who would have taken the pains Governor Bullock has to appease and conciliate his stern and bitter enemies. If he is not a Christian, he has certainly obeyed Christ in one thing, *he has done good for evil.*

I am not astonished at a gentleman remarking that he had rather go to hell than to be the Governor of Georgia. Then it seems to be a natural characteristic of the people to keep up an eternal whine. It was war all the time General Tillson was in command of the bureau; the same with Generals Pope and Meade; and now they fight General Terry, through Governor Bullock. Why, if we don't stop, people abroad will not believe us. We have now got such a bad name, that respectable colored people traveling from the North, actually refuse to come through Georgia; they have got the idea that they would be killed. One of the most prominent colored men in the nation passed through here some six weeks ago, and he informed a certain gentleman, that he would not have told his name for anything. The man actually thought he was going through hell.

How much impetus the defeat of Mr. Blodgett for a seat in the United States Senate gives to this measure, I am unable to say, but I do not think it a sufficient reason to plunge the State into another anarchy, for the fuss-breeder to take no part in it, for it is well known, that the men who get up the war are always far in the rear when the death missiles begin to fly.

I have admitted all through this argument that the act of July 15, 1870, had revived our legal status as a State in the Union. But when the question is really brought down to a nice point, that is very doubtful, though I have partially admitted it, and I will give you my reasons. The reconstruction acts, approved March 2, 1867, section 6, says:

"That until the people of said rebel States shall be, by law, admitted to representation in the Congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States," &c.

Now, has Georgia been, by law, admitted to representation? Not a bit of it. But let us see if she has.

The act approved July 15, 1870, says:

"SECTION 1. * * * * It is hereby declared that the State of Georgia is entitled to representation in the Congress of the United States."

Not that her representatives are admitted, or that the State is admitted, but are entitled to it, &c., when we get ready to give it to her. It requires another act yet to get Georgia in the Union, and until said act is passed Georgia is a provisional government only. I do not deny, however, the power of each branch of Congress, under this last act, to finish reconstruction in Georgia by a resolution in their respective houses. But I deny that this has been done, and, until it is we are as chaff before the wind in the hands of the General Government. She can abolish us, modify us, or hang us, and our Constitution would not be worth blank paper as a preventive.

Our Constitutional Convention, while providing for Senators and Representatives, in accordance with the Constitution framed, could not limit the term of their service only on the presumption that they were to assume at once a legal status, for Congress could keep this Legislature in power for the next twenty years, and no elections could be held without she gave us an act authorizing it. And all this balderdash about the Constitution of our State fixing the length of term for provisional Senators and Representatives is simply nonsense. It could assume no such power. Congress alone has that question to determine. While the State Constitution requires Representatives to be elected biennially, it has no reference to the term of members as a provisional Legislature. So that if we were to remain provisional for fifty years, at the end of that time we would be entitled to two more years under the State Constitution. It cannot be denied that the members of this House, though elected in 1868, had two legal characters, that of Provisional Representatives to do certain things by authority of the General Government, and that of State Representatives to do legislation under the State Constitution when we lost our provisional character from under the General Government. So it matters not when the election was held the principle is the same. And just at this point I beg to refer you to an extract containing the opinion of Judge Lawrence, of Ohio, but now a member of Congress, as to the proper time we are to hold an election, and this will make more lucid, as well as greatly strengthen, the argument I have been making.

Says he:

"Now when does the next election take place?"

"The Constitution answers this question."

The Constitution of Georgia is here referred to.

"The election for members of the General Assembly shall begin on Tuesday after the first Monday in November of every second year." That is, an election must be held in November of every second year after July 15, 1870, for members of the House and for twenty-two Senators in the odd numbered districts. By the Constitution the Governor holds his office for four years after July 15, 1870, and until a successor shall be chosen and qualified, and a successor may be elected in November, 1874.

"I am aware of the rule of law which makes the Act of July 15, 1870, by the doctrine of relation, as it is called in the law books, relate back and validate the ratification by the lawful provisional Legislature of the Constitutional Amendment.

"But this does not change positive provisions fixing the time of future elections."

What future elections? The elections required by the State Constitution after the Legislature leaves its provisional character. Then and then alone does the State Constitution provide for and regulate the character of the General Assembly. Now, gentlemen, if I have not made this question as transparent as a crystal itself, then there is no such a thing as transparency in the English language.

There is another feature in this question to which I earnestly invite attention. It is this: I really believe that, owing to the fact that the Act of July 15, 1870, containing no fundamental principles for the negro to hold office in the future, there is a kind of philosophic hope, still flickering in the breast of many, that, through some strategic move of the political checker-board, the time and opportunity will again come when the negro will be hurled out of office as successfully and as arbitrarily as he was in September 3, 1868. It has been said to me that the XVth Amendment does not confer the right to hold office on the negro, and all that is necessary is to repeal the Act known as the Enforcement Act, approved May 21, 1870, and this question, so far as Georgia is concerned, would revert right back to where it was in 1868. This is the opinion of men standing high on the platform of legal lore, or, at least, have that reputation in Georgia.

Now, to what extent this foolish idea is cherished, I neither know nor care; but, judging from the general tone of the Georgia press, and the sly hints occasionally thrown out about what we hope to see, &c., I am inclined to believe it is pretty general—and, in all probability, has much to do with the great anxiety manifested for an election this fall.

Another thing: Have gentlemen considered the fact that we are yet under the command of General Terry—that he could disband this body by the stroke of his pen, and no man dare to say, "what doest thou?"—that he could remove our Governor, our Secretary of State, our Treasurer, our Comptroller General, and any other officer or functionary in the State? If not, why is he here?—who don't he leave our sacred soil, and make room for greater men than a military autocrat could dare presume to be? Have we not plenty of chivalry in Georgia?—scores of F. F. G.'s from the mountains to the seaboard?

The reason, obvious it is, because we are under the Reconstruction Acts of Congress. And mark my prediction to-day; you attempt to bring on an election this fall and he will stop you.

I discover there is a class of gentlemen who are continually harping on the implacability of what they call a legal construction of the last bill enacted in relation to Georgia. God knows I respect law, and always try to yield it a hearty obedience. And if I have never done so in the past, I should feel under a thousand obligations to reverence any law enacted by the present Congress, for eternity alone will afford

time sufficient to enumerate the blessings that have accrued to my race through the legislation of that august body of inimitable patriots. I could hardly indulge a conscientious scruple about an act emanating from it, even if it bore on its face a glaring absurdity. But what is the great legal technicality around which cluster so many doubts that tend to paralyze the loyalty of such a mass of left-handed jurists? Here it is:

And nothing in this or any other act of Congress shall be construed to affect the terms to which any officer has been appointed or any member of the General Assembly elected as prescribed by the State of Georgia.

The question is, What does that clause mean? Sirs, it means nothing more nor less than that Governor Bullock should not rip up the machinery of the State as it was reported in Washington he intended to do. We are all cognizant of the fact that it was rumored in Washington and circulated by the Georgia press that the Governor intended, as soon as the State was admitted, to remove every official in the State who did not indorse his policy; in other words, that he intended to cut off the heads of Treasurer Angier, Chief Justice Brown, Judge Warner, and a score of others. And if such was the intention of the Governor, Congress meant to neutralize his power, and say, Now, see here, you fellows have been quarreling long enough, and we need you all in the Republican party, and you shan't hurt one another. So, hand over that sword, Bullock; and all you boys dry up. This, I contend, is the purport of that provision in the act of July 15th. And how any sane man can give it any other construction in the face of all the surrounding contingencies, I am unable to see.

This position is sustained by the course pursued by the Government at Washington, for no party or faction of Republicans have been ignored by the national administration. All have received appointments, and all have wielded a potent influence with the first Republicans in the nation, which go to prove that Congress nor the President intends to notice our local schisms in Georgia, but rather protect and encourage all factions.

But there is another reason an election is so much desired this fall. Negro-haters know well that if we have an election in November, that the Democrats will sweep the State; that the next Legislature will not have a dozen Republicans in it; that we have not time to organize and rally the colored voters; that the State once in their possession will remain so for years to come. This may be a good reason for some who know nothing about the organization of the party in Georgia and neither care which beats or wins. But to a man like myself, who has made thousands of speeches and had published thousands of documents for the triumph of Republican ideas, it is a matter of great concern, for in hard work I challenge an equal.

But for all, what have we got in Georgia, simply the right to vote and sit in the General Assembly after being elected twice, once by the people and then by the United States Congress. Not a colored juror or a colored police in all the State. Two colored magistrates, one colored clerk of court, and one or two colored bailiffs, make up the complement for Georgia, the Empire State of the South. If we get on the cars we have to pay first-class fare, and, to two exceptions, go into any old dirty box they choose to put you, and from such an outrage there is no redress. If a colored man even picks up the filthiest white wench in the streets, and attempts to relieve her necessities by marriage, he is sent to the Penitentiary for twenty years. But, on the other hand, Great God, *what a tale I could tell*. We are forced to pay taxes to keep up schools and municipalities, and not a dollar is ever expended for the benefit of colored children. We are tried and condemned by the courts, with laws enacted thirty years ago. Our statute books are as proscriptive now as they were in slave time, to the exception of whipping and selling, yet some are crazy to have an election to keep these evils from being remedied.

But mark my word to-day—you had just as well remedy or correct these things one time as another; destiny has determined it, and neither men nor devils can prevent it; I am positively ashamed to tell it, but heaven knows it is the truth, that not a single law has ever been passed by the Georgia Legislature or by any city municipality in the whole State, that was intended, or even contemplated, the bettering of the colored man's situation; I challenge any member of this House to name one; or any mayor or alderman in the State to point to a solitary ordinance they have adopted—everything we have received has been given by Congress. And because there is a faint probability of something now being done in that direction, the hue and cry is, *break up the Legislature*. But take care, gentlemen, you do not break yourselves. I told you in 1868, that your course was foolish; I repeat the same warning to-day; I again call upon you in the pregnant words of the poet:

"Stop, poor sinner, stop and think."

But I appeal especially to colored members to stand firm in defense of your suffering constituents; let us, to the best of our ability, stay the flow of blood which is sure to follow an election this Fall.

The position of Colonel Farrow, Senator elect, has frequently been hurled into

my face because he, being a prominent Republican, favors an election this Fall. I have no disposition to collide with Colonel Farrow at all, for he is a gentleman I have always admired, and believed to be a good Republican. But I must confess that he assumes one of the most inconsistent positions I have ever known or heard of for a statesman. He claims to be the Senator elect, for the same term claimed by Mr. Joshua Hill, a position which is either absurd or transcends the ingenuity of man to reconcile with reason, for, according to his own theory, the same Legislature, occupying the same status which elected him, elected Mr. Hill. And, if it is true, I leave it to the judgment of any idiot in the State, if Colonel Farrow, in trying to rob Mr. Hill of his seat, is not one of the most arrogant and presumptuous of living men, unless he wants the United States Senate to make him a complimentary member, to which I should certainly not object. But I contend that that is the only ground on which he can base a claim, if his position is correct. And if the United States Senate, under such a decision, did not seat Messrs. Hill and Miller, then I should pronounce that grave body as imbecile in consistency as I do the anomalous position of Colonel Farrow. I make this criticism with the kindest feelings toward our Attorney General, but they are, nevertheless, sterling facts, which no sophistry can refute, for he can no more enter the United States Senate, if we decide this to be the last session of the Legislature, than a fiend can enter the kingdom of heaven.

Why the very idea of two sovereign powers ruling on one territory is so extremely preposterous that language fails to depict it. Such an instance never has been nor never can be. It is not only contrary to the spirit and genius of our Government, to all Republican institutions, to even monarchical despotisms, but is antagonistic to either sense or reason. It is a glaring impossibility, a self-contradiction, an irrational fancy, impracticable and incongruous with anything ever attempted in the pagan world.

Think of two independent commonwealths exercising sovereign power at one time over one and the same people. There is not a lunatic in the asylum at Milledgeville who would not laugh to scorn such unpardonable folly.

To sum the whole question up in a nut-shell: The Constitution of Georgia had no more to do with us than the Constitution of New York or Wisconsin, while we were under the reconstruction acts. That instrument says an election shall be held every two years, I admit; but when? Not while we are under the reconstruction laws and the United States Constitution; but common sense teaches us that it means after we come under its jurisdiction; and then, and not till then, can our Constitution presume to order the General Assembly. You might just as well say that a colonel can command an army at the same time that a general is commanding it. But, after Congress releases us, our State Constitution becomes of force. Our duty, then, is to take up the State Constitution, and find out its requirements and obey them. Congress did not release us, as I believe, till July 15, 1870. Now, what is our duty? Two Novembers from that time hold an election for State and county officers. And to attempt to hold an election sooner is a violation of the Constitution and a willful perversion of the laws of our State. An election in November next would be unconstitutional, illegal, and a public nuisance.

I have no hesitancy in saying here to-day that I stand in my place, not only to vindicate the right and the spirit and intent of the laws, but as a blue republican, I plead for the salvation of our party. I know, God knows, and, not speaking sacrilegiously, the devil knows, that the defeat of this measure sounds the death-knell of the Republican party in Georgia. And if the Democratic party does not change their programme or policy, where is the poor negro to look; we who have been immolated by hundreds and have smoked upon sacrificial altars from one side of the State to the other; we whose blood has rolled in crimson tides till the land has been drenched in human gore, do you expect us to join in and coalesce with the Democracy. If so, I am now prepared to send a colored delegation to the Democratic Convention, soon to meet in this city, and try to capitulate terms for a union, and ask that they so change their policy, or so plank their platform, that we can take part in their party.

True, I make these remarks with trembling nerves, but the Scriptures' advice, under certain contingencies, that it is best to make friends with the mammon of unrighteousness. I fear that day has come for the negro in Georgia, when wisdom and personal security dictates the utility of his going to his old master and saying, "here boss, you used to rule over and control my body, now command my vote." One thing is sure, if we have an election this Fall, I shall advise the colored people to stay away from the polls, and any man in Georgia who can control more colored votes than I can I would like for him to show his face. I am now getting letters from all parts of the State asking what to do, and I tell you my race shall not die in Georgia for nothing, as they have in the past. Hereafter the negro shall either die for something, or because he has lived out his days.

It requires blood to sustain a Republican party in Georgia, and we can sustain it if we will; but if we will not when we can, I will stop the blood on our part as far as I can wield an influence.

But if we are to be forced to have an election, I ask, in the name of God and

humanity, that it be deferred till we can make a few just and righteous laws, and have time to stump the State and instruct the colored portion what to do and how to act in the premises.

But I must come to a close. I know I have taxed your time and wearied your patience during the delivery of my wild and disjointed harangue, but while we are out at sea, however,

"Wrestling with the tide of fate,
Ever drifting, drifting, drifting,
On the shifting
Currents of the restless main."

Both wisdom and prudence would suggest the propriety of being respectful to those who differ with us in opinion and policy, I claim as much individuality for others as I do for myself. Therefore, think for yourself and act accordingly, and when we have done that for our State, believing we have acted for the best, then, in the name of Him who arbitrates for man, and rules the destinies of nations,

"Spread all her canvass to the breeze,
Set every thread-bare sail;
And give her to the God of storm,
The lightning and the gale."

The following report of the action of the House of Representatives on the Senate resolutions, is taken from the Atlanta New Era of August 12:

It is but just to say that the resolutions were carried by one vote, when a Republican, for some reason, changed his vote to the negative. This disgusted several other Republicans, who rose to their feet and changed their votes, through revenge to the treachery of one of their party; so that several whose names appear in the negative did really vote for the resolutions, and publicly advocated them.

No colored member voted against the resolutions, except Hon. Alexander Stone, who voted for them at first, but changed his vote in disgust at bolting Republicans.

The Senate resolution on the election question being the special order of the day, was taken up and read.

Mr. Shumate said this was an attempt on the part of some men to elect themselves for two years longer. The resolution bears an untruth on its face, for the Constitution of Georgia can never be the paramount law of the land. They say that the Constitution of Georgia has not gone into effect, but this Constitution was framed in 1868, and the whole machinery of State Government has been working under this instrument. Has not the Supreme Court decided that this Constitution went into operation in 1868. All other events and actions have been allowed under it. The colored men were expelled under the Constitution, and Congress enacted laws and passed the XVth Amendment, which acts of Congress put the expelled members back. This Legislature went into the ridiculous action of ratifying the XIVth Amendment, which had already been for two years the constitutional law of the United States. The force and effect of this Constitution does not depend upon the seating of Representatives in Congress—as those Representatives do not take their seats in Congress by virtue of the exact status of the Constitution. The offices of members of this Legislature began in 1868, and must end on the 9th of November, 1870.

Mr. Turner said that at first he had determined to cast his vote against this measure, but since he has given the subject more consideration he finds that there are two sides of this question, that the flag of the Union was hoisted at the mast-head of the ship of State, when there suddenly came a mutiny among the crew and certain of them were cast overboard, but Congress interfered, and next December will see the ship of State in a haven of rest. This Legislature has no right to disband. If we were operating under a binding Constitution why did not the people hold it up in their defense when the military were forced upon us. If this is not the first legal session of this Legislature in which colored men could represent their constituents, &c.

Mr. Turner's speech was fraught with logic and good sense. He reviewed the history of this Legislature from beginning to end, and claimed the manifold wrongs committed against the colored Representatives and their constituents were irreparable; that the school laws which the Constitution had provided had never been put into effect; and that scores of colored men had been convicted by prejudiced juries on frivolous pretenses. Mr. Turner was interrupted in the midst of his eloquent address by the expiration of his allotted time.

Mr. Caldwell read from the Constitution and argued that there was no plainer proposition in it than that section which declares that there shall be an election in November next; and the laws of Congress declare that no act of that body shall be so construed as to deprive the people of their constitutional rights on this very subject. Before us is a proposition to extend the term of this Legislature, indefinitely

or perhaps for life; that this is a constitutional question and this Legislature should plant themselves upon the Constitution of Georgia and the laws of Congress, and act accordingly.

Mr. Harper of Terrell, said that any jury, from whatever clime, would say that Congress passed the reconstruction laws, not because we had no Constitution, but because that Constitution had been violated. The Supreme Court has decided, in the 39th Georgia, that the Constitution went into effect on the 22d of July, 1868, the very same Court that decided that the colored man was entitled to hold office. Has Congress ever decided that we had no Constitution? No such thing has ever been decided.

Mr. O'Neal, of Lowndes, said that the election of Mr. Lincoln was pronounced an outrage, and yet he took his seat and administered the government. When secession was agitated, any action in opposition was pronounced an outrage. And the Reconstruction Acts have been pronounced as outrages, and the tongue of this great Government has rolled away these imputations; that the people who elected him want him to tell these facts to this Legislature. All the publications of Rolls of Shame have been done for the purpose of intimidation. Let us meet this issue upon its legal merits. Mr. Akerman has no right to intrude semi-official opinions upon the action of this House in this issue. If it is true that Congress will give an election, why do men oppose this resolution so strenuously? They know that this Legislature has the right to settle this question; that this Constitution will commence to operate when our Representatives are admitted. Congress has said that the Legislature acted in a revolutionary manner, and that the colored members got their seats by action of Congress, which action threw this matter back to its beginning. We are still going on under the supervision of Congress, and will do so until our Representatives are admitted.

Mr. O'Neal, of Lowndes, called the previous question at the end of his eloquent and forcible remarks.

Mr. Scott rose to a point of order, saying that Mr. O'Neal had no right to call the previous question after his time was out.

The Speaker ruled that the point was not well taken, from which ruling Mr. Scott appealed.

The yeas and nays were called, which call resulted in sustaining the Speaker's ruling.

The main question was then put, and on a call for the yeas and nays, the following were those voting in favor of the Senate resolution:

Messrs. Allen of Jasper, Allen of Hart, Bell, Barnes, Buchan, Carson, Campbell, Clower, Costin, Colby, Cunningham, Darnell, Davis, Ellis, Fitzpatrick, Franks, Floyd, Goodwin, Golden, Gardner, Guilford, Hillyer, Holcombe, Houston, Harden, Haren, Hughes, Hutchins, Hooks, Harris of Glascock, Harrison of Hancock, Hall of Meriwether, Joiner, Jackson, Johnson of Spalding, Johnson of Forsyth, Linder, Lindsey, Madden, Madison, Maxwell, Maul, Moore, McCormick, Neebitt of Gordon, O'Neal of Lowndes, O'Neal of Baldwin, Parks, Porter, Powell, Reid, Rice, Rodgers, Richardson, Sewell, Simms, Smith of Muscogee, Tweedy, Turner, Watkins, Warren of Burke, Williams of Harris, Zellars.

Those voting against the Senate resolution were:

Messrs. Atkins, Armstrong, Anderson, Brewster, Brown, Barnum, Ballinger, Bradford, Clark, Caldwell, Cloud, Cleghorn, Cobb, Duncan, Erwin, Felder, Fowler, Ford, Fryer, Fincannon, Gray, Guillat, Higdon, Holden, Hamilton, Harkness, Hook, Humber, Harris of Murray, Harper of Sumter, Harper of Terrell, Harrison of Franklin, Hall of Bullock, Hall of Glynn, Kyle, Lane, Lee, Mathews, McArthur, McDougald, Neal, Nash, Nisbet of Dade, Osgood, Page, Price, Phillips, Pepper, Perkins of Cherokee, Reddish, Rainey, Rosser, Rawls, Rumph, Strickland, Stone, Sisson, Shumate, Seale, Shackelford, Scott, Sorrelle, Smith of Coffee, Smith of Ware, Tamlin, Tata, Turnipseed, Vinson, Walthall, Welcher, Wilchel, Warren of Quitman, and Williams of Haralson.

RE-ACTION OF THE HOUSE OF REPRESENTATIVES.

On Monday, the 15th, the House rescinded its action on Thursday, by a prolongation vote in another phase, of which the following, taken from the New Era of the 16th, will show. It is hardly necessary to state that the same members who voted against the Senate resolutions on Thursday, the 11th inst., voted for prolongation in the face of the Constitution they claim to have been under for two years past.

Mr. O'Neal, of Lowndes, rose to a point of order, and asked the Speaker if he considered himself and this House as a part of the General Assembly of Georgia competent to enact laws; that the presiding officer of this House is bound to conform his rulings to the action of this House; that this was an extraordinary session for two days, and that as soon as the regular time arrived then the session was regular, and that the House of Representatives is here, in his opinion, contrary to the Constitution, for this House has acted in such a manner as to recognize past sessions, and this, according to that action, is not the first, but the third session; that he had voted

for the resolutions, believing them right, but when those high in authority, and whom he respected, said they were wrong, he acquiesced with the majority. If this is decided to be the first session, then the sessions of 1868-69 are blotted out; but if this is the third, then the Constitution fixes our position; for, deducting the recess, this House has been in session over the forty days.

Mr. Anderson asked upon what day this House was empowered to enact laws.

Mr. O'Neal said that this House has virtually decided that the action heretofore has been by sufferance of the reconstruction acts and the military, but the action on the said resolution has reversed that decision.

Mr. Bryant said he believes this is the third session, but the administration has acted on a different theory, and under that theory this is not even the first session; and that the President and General Terry can recognize or not our action. He mentioned a situation in Kansas similar to our own, in which members elected under an ordinance were allowed to hold the regular term, together with a short time which had run before the regular term commenced; that this State has not been yet admitted, according to the position of the gentleman from Lowndes. Mr. Bryant argued that this House has, by unanimous consent, continued this session beyond forty days, even by a larger vote than that required by the Constitution.

Mr. Scott said that he believes this House can only extend its term by an actual two-thirds vote, and that all bills that can now be passed may be set aside, unless this session is extended to a day certain by the required vote; if this Government is permanent or provisional, it does act under our Constitution; that he made a point two months ago that the time could not be extended by common consent, but he was overruled; and that he is not now prepared to say whether this House is now able to extend its term.

Mr. O'Neal, of Lowndes, offered a resolution that the Speaker appoint a committee to notify the Senate that this House is ready to adjourn *sine die*.

Mr. Anderson said that he is prepared to treat the matter with proper dignity and solemnity, and that this matter should be carefully considered, and that this session may be continued only by an actual vote, and that he favors the appointment of a committee to investigate this question, which is one of law and fact.

Mr. Tweedy said that he was opposed to curtailment now, as he was on Thursday and Friday last; that little has been done, and much remains to be done, etc.

Mr. Shumate said he was sorry to see this question assuming a political phase; that this House is in an anomalous position; that the election question has nothing to do with the decision of the one now agitated. He argued that if this is the last session, this Legislature has twice this year extended its time beyond forty days, and that this question of prolonging the session, under the circumstances, is a knotty one, and should be carefully considered. The Constitution says there shall be an annual session after the first, which first is called the first meeting, and in his opinion was for the purpose of organization, etc., and that a conference should be had with the other branch of this General Assembly to see if this question cannot be settled, for he believes there are several ways of getting out of this quandary.

Mr. Simms said that he was in favor of adjournment; that this body has placed itself in a curious predicament; that he had warned this Legislature, in 1868, that they would be found in as bad a fix when he returned as when he was forced to leave; and now he tells them to come out of the past and walk forward in the future; that the proposition voted down on Thursday would have brought us representation in Congress and peace to the people, and this difficulty may cause some of the seventy-three who voted to kill those resolutions, to reconsider and vote for the same thing some other way.

Mr. Rice said that his side of the House is in no dilemma; that the point has just arrived when this House can begin to do real labor, and that if this House adjourns, all the work and expense of committees would go for nothing; that he hopes this matter would be settled, if possible, so that important work can be completed.

The Speaker ruled that this session must end to-day.

Mr. Tweedy appealed from the ruling of the Chair.

Mr. O'Neal of Lowndes said that the Speaker has ruled that this session has expired by limitation of the Constitution, and that there can be no appeal from *res adjudicata*.

Mr. Shumate said that the House cannot adjourn without the concurrence of the Senate, and he advocated the appointment of a Conference Committee.

Mr. Tweedy's appeal was put before the House, the yeas and nays were called with the following result: yeas 50; nays 77; so the ruling was not sustained.

Mr. O'Neal of Lowndes, said that this vote was virtually to prolong the session.

Mr. Anderson moved to extend this session until the 12th of September.

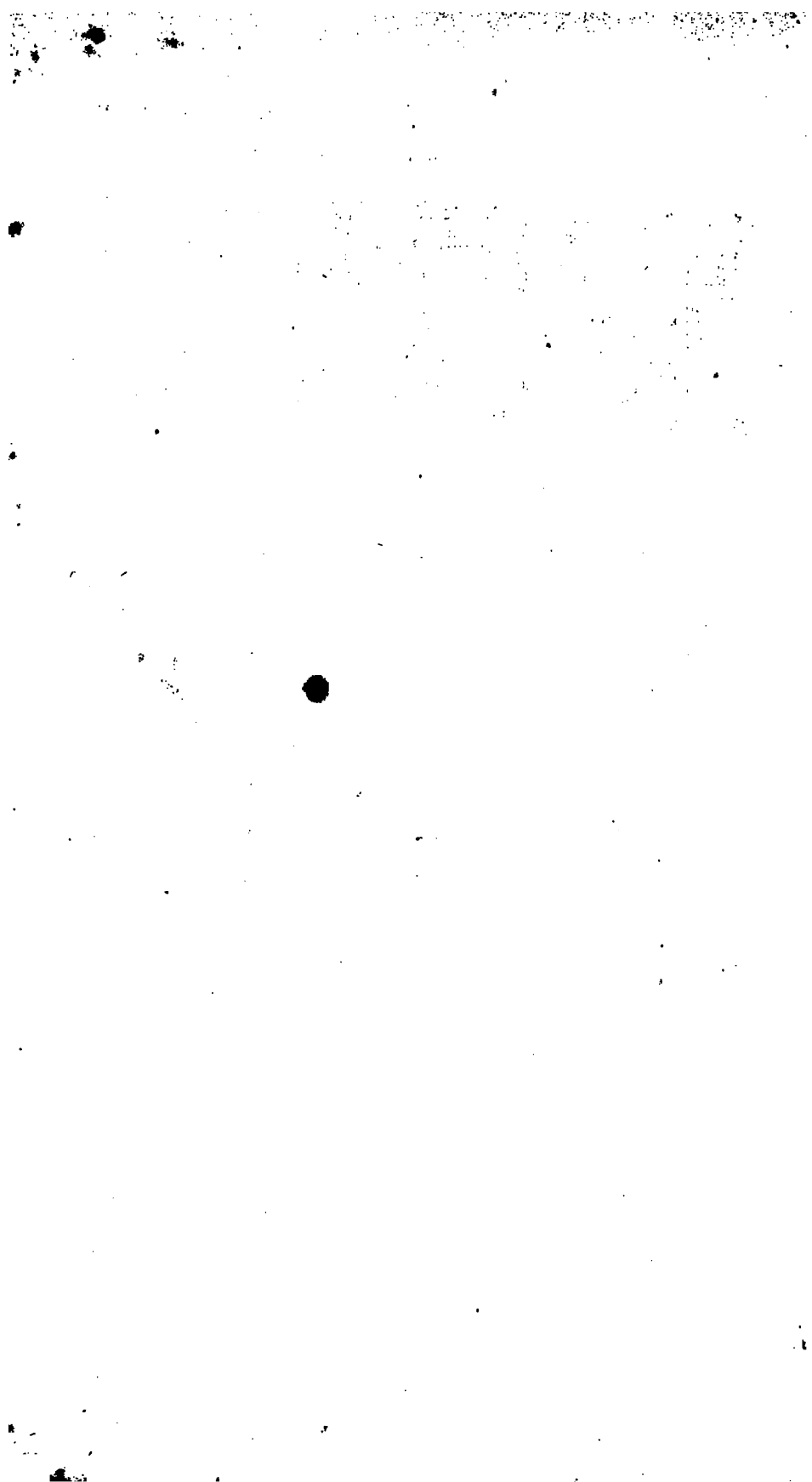
The following editorial, also taken from the New Era of the 16th, will show the inconsistency of the House in its full light. Nearly all the Republicans voted to adjourn *sine die*, while nearly all the Democrats and all the conservative Republicans voted to prolong, in willful disregard of the State Constitution, which requires the

General Assembly to adjourn, if this is not the first legal session as a State Legislature :

Mr. O'Neal, of Lowndes, made a point yesterday that threw some of our "Curtailist" friends into consternation. This was either the first or it was the third session of the Legislature. If the third, then it had expired by limitation, and it only remained for them to adjourn *sine die*. If it was the first, then that fact stood out in awkward contrast with the action of the seventy-four in refusing to postpone an election until after the meeting of Congress. If it was the third, each day's session from the expiration of the forty days was simply a nullity, as it was in the very face of the Constitution. If it was the first, then the proposed election this fall was irregular, unnecessary and unconstitutional.

The Speaker ruled that, in view of the vote of the House on Thursday, refusing to postpone an election, it stood committed to the proposition that the Constitution demanded an election this fall; and, as such election implied the legality of the organization of 1868, and the expiration of the first two years of constitutional government, this Legislature had expired by limitation, and hence stood adjourned *sine die*.

An appeal to the House resulted in yeas 50, nays 77! So, the Speaker being overruled, the seventy-four who voted for "Curtailment" on Thursday and Friday, now voted for "Prolongation!" This is an interesting muddle, truly; and need we say who is responsible for it? Consistency would seem to demand that those who voted for "Curtailment" on Friday should not vote for "Prolongation" on Monday. But they did it!









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